

Date: August 20, 2008

Name of Appellant: Aby Zemack

Service Address: 9 Vernon Street  
Framingham, MA 01701

In reference to: 187 Oaks Road  
Framingham, MA

Docket Number: 08-510

Property Address: 187 Oaks Road  
Framingham, MA

Date of Hearing: January 3, 2008

Enclosed please find a copy of the decision on the aforementioned matter.

Sincerely:

**BUILDING CODE APPEALS BOARD**

Patricia Barry, Clerk

cc: Building Code Appeals Board  
Building Official

**COMMONWEALTH OF MASSACHUSETTS**

**SUFFOLK, ss.**

**Building Code Appeals Board  
Docket No. 08-510**

Aby Zemack,	)	
	)	
Appellant	)	
	)	
v.	)	
	)	
Town of Framingham,	)	
	)	
Appellee	)	
	)	

**BOARD'S RULING ON APPEAL**

**Procedural History**

This matter came before the State Building Code Appeals Board ("Board") on Appellant's appeal filed pursuant to 780 CMR §122.1. In accordance with 780 CMR §122.3, Appellant asks the Board to grant a variance from 780 CMR § 706.3 and Table 705.7 of the Massachusetts State Building Code ("Code") regarding the alteration of a structure located at 187 Oaks Road, Framingham, Massachusetts ("Project").

By letter dated, January 17, 2006, the Town of Framingham Inspectional Services Division ("Appellee") rejected Appellant's application for a permit for failing to comply with the provisions of 780 CMR 706.3 and Table 705.2.

In accordance with G. L. c. 30A, §§10 and 11; G. L. c. 143, §100; 801 CMR §1.02 et. seq.; and 780 CMR §122.3.4, the Board convened a public hearing on January 3, 2008 where all interested parties were provided with an opportunity to testify and present evidence to the Board.

Christopher Walsh, Lisa Zemack, and Aby Zemack appeared on behalf of Appellant. No one appeared on behalf of Appellee.

**Exhibit**

**Exhibit 1:**      Application

**Exhibit 2:**      Plot Plan

**Exhibit 3:**      Photograph of Property

### Reasons for Variance

The issue is whether the Appellant should be allowed a variance from the limitations set forth in 780 CMR § 706.3 and Table 705.2 and allow a variance for the rating of the windows. Mr. Walsh, architect for the Appellant, testified that there was a three (3) foot, six (6) inch distance between the existing building and the lot line. Furthermore, the distance between the building and the adjacent buildings is 108 feet and the other is 128 feet away. During renovations, the Appellant identified that the wall would need to be a rated wall based on the proximity to the lot line. Mr. Walsh further testified that the contractor knew of this requirement, but it was omitted from the plans and the contractor is no longer involved in the Project.

When the Appellant looked at the possibility of putting fire shutters into the building after the fact, it was determined to be fairly expensive and ungainly. Mr. Walsh testified that there are no adjacent buildings and the wall all at issue is surrounded by a parking lot. With respect to the parking lot, Mr. Walsh explained that it was “fairly straightforward the fact that they would not easily be able... to build in this space and create this fire condition.”

### Decision

Board Member Brian Gale motioned to grant the variance based on the fact that the building official has no objections to the variance and the preexisting façade was made of glass and the Appellant’s renovations have brought the building up to Code (“Motion”). The Motion was seconded by Alexander MacLeod. Following testimony and based upon relevant information provided, Board members voted to approve the Motion as described on the record. The Board voted as indicated below.

**X..... Granted**                      ☐..... Denied                      ☐..... Rendered Interpretation

☐.....Granted with conditions                      ☐..... Dismissed

The vote was:

**X.....Unanimous**                      ☐ ..... Majority



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Brian Gale

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Alexander MacLeod

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Rob Anderson

Any person aggrieved by a decision of the State Building Code Appeals Board may appeal to a court of competent jurisdiction in accordance with Chapter 30A, Section 14 of the Massachusetts General Laws.

A complete administrative record is on file at the office of the Board of Building Regulations and Standards.

A true copy attest, dated: August 20, 2008

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Patricia Barry, Clerk

All hearings are audio recorded. The digital recording (which is on file at the office of the Board of Building Regulations and Standards) serves as the official record of the hearing. Copies of the recording are available from the Board for a fee of \$5.00 per copy. Please make requests for copies in writing and attach a check made payable to the Commonwealth of Massachusetts for the appropriate fee. Requests may be addressed to:

Patricia Barry, Coordinator  
State Building Code Appeals Board  
BBRS/Department of Public Safety  
One Ashburton Place – Room 1301  
Boston, MA 02108